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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference JNRP33148	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/12533	International filing date (day/month/year) 10.11.2003	Priority date (day/month/year) 12.11.2002
International Patent Classification (IPC) or both national classification and IPC B65D27/06		
Applicant GLAXO GROUP LIMITED et al.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 8 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input checked="" type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>		
Date of submission of the demand 13.05.2004	Date of completion of this report 10.02.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Bevilacqua, V Telephone No. +49 89 2399-7983 	

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I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-30 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
- (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
- ☐ the entire international application,
 - ☒ claims Nos. 16,17,25,26,30
- because:
- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):
 - ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 - ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 - ☒ no international search report has been established for the said claims Nos. 16,17,25,26,30
2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:
- ☐ the written form has not been furnished or does not comply with the Standard.
 - ☐ the computer readable form has not been furnished or does not comply with the Standard.

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ neither restricted nor paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with.

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☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

☐ all parts.

☒ the parts relating to claims Nos. 1-15,18-20,22-24,27,28,29 .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	8,19
	No: Claims	1-7,9-15,18,20,22-24,27-29
Inventive step (IS)	Yes: Claims	
	No: Claims	8,19
Industrial applicability (IA)	Yes: Claims	1-15,18-20,22-24,27-29
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item IV

Lack of unity of invention

1. The international preliminary examining authority is of the opinion that the application does not comply with the requirements of unity of invention as set forth in the PCT regulations (Article 34(3), Rule 68(1) PCT).

2. The separate inventions are:

a) Claims 1-15,18-20,22-24,27,28,29:

a package having a container part, an opening, a closure and an outer surface wherein the closure in a first closed position covers an element displayed on the external surface and is adapted to be moved from this first closed position to a second configuration in which it closes the opening but leaves the element displayed on the outer surface uncovered;

the closure part having a cover section covering said element in the first position and a permanent section which in the first and second closed positions is secured to the container part to close the opening

whereby

the cover section is formed from a first piece of sheet material and the balance of the package is formed from a second piece of sheet material and the cover section overlies the permanent section

b) Claim 21:

a package having a container part, an opening, a closure and an outer surface wherein the closure in a first closed position covers an element displayed on the external surface and is adapted to be moved from this first closed position to a second configuration in which it closes the opening but leaves the element uncovered

whereby

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the address is on a label affixed to the outer surface of the package

3. Reasoning

This application deals with the general problem of providing a package easily returnable to a predetermined address.

This problem is solved by the features of independent claims 1 and 29.

The subject matter of claims 1 and 29 is not new because all these features are disclosed in WO 02/36448 (see for example from page 2 line 13 to page 5 line 3 and figures 1 to 5).

In addition to that the applicant should note that this document also discloses all the features of dependent claims 2-7, 9-15, 18, 20, 22-24, 27-29.

Therefore the claims containing features making a contribution over the prior art (WO 02/36448) are claims 8, 19 and 21 (see Rule 13.2 PCT).

These claims are directed to the solution of different problems and use different technical features:

-claims 8 and 19 (invention 1) solve the problem of reducing the amount of material needed to form the package, the feature solving this problem is the use of a two-blank construction where the cover section overlies the permanent section.

-claim 21 (invention 2) solves the problem of avoiding writing the address directly on the package, the feature solving this problem is a label carrying the address and affixed to the outer surface of the package

Since the problems to be solved by the three inventions and the features which solve these problems are different, the different technical features cannot be considered to be corresponding special technical features as required by PCT Rule 13.2.

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. State of the art

Reference is made to the following documents:

D1: WO 02/36448 A (HAMBLIN GEOFFREY RONALD ;AMCOR PACKAGING AU
PTY LTD (AU)) 10 May 2002 (2002-05-10)

D2: US-A-4 354 631 (STEVENSON MAYNE B) 19 October 1982 (1982-10-19)

D1 discloses a package (see figures 1-4) having a container part (3) which defines a cavity having an opening (13) for receiving a product, a closure part (25,17,15,19) which is movable from a closed position , in which it closes the opening to the cavity to an open position in which it opens the opening to the cavity , and an outer surface having an address (21) thereon which is covered by the closure part in the closed position thereof , wherein the closed position is a first closed position, the closure part has a first configuration in the first closed position (see figure 1) and is adapted to be moved from the first configuration to a second configuration (see figure 4) in which it is able to adopt a second closed position in which it closes the opening to the cavity but leaves the address uncovered.

The subject-matter of claim 1 is therefore not new in the sense of Article 33(2) PCT.

As already stated on form 405 all the features of dependent claims 1 and 29 and of dependent claims 2-7,9-15,18,20,22-24,27-29 are disclosed in D1 (see for example from page 2 line 13 to page 5 line 3 and figures 1 to 5).

2. Inventive step

The subject-matter of claim 8 differs from the package disclosed in D1 in that:

-the cover section overlies the permanent section

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The problem to be solved by the present invention may therefore be regarded as how to find an alternative possible way to realize a closure part having two closed configurations, with a detachable section and a permanent section.

The solution proposed in claim 8 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) because a closure part wherein the cover section overlies the permanent section is described in document D2 (see figures 1-5) as providing the same advantages as in the present application. The skilled person would therefore regard it as a normal option to include this feature in the package described in document D1 in order to solve the problem posed.

The subject-matter of claim 19 differs from the package disclosed in D1 in that:

-the cover section is formed from a first piece of sheet material and the balance of the package is formed from a second sheet of piece material.

The problem to be solved by the present invention may again be regarded as how to find an alternative possible way to realize a closure part having two closed configurations, with a detachable section and a permanent section.

The solution proposed in claim 19 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) because a closure part in which the cover section is formed from a first piece of sheet material and the balance of the package is formed from a second piece of sheet material is described in document D2 (see figures 1-5) as providing the same advantages as in the present application. The skilled person would therefore regard it as a normal option to include this feature in the package described in document D1 in order to solve the problem posed.